



# NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

## CHAPTER: 35.1.7

### TITLE: NON-DISCIPLINARY EMPLOYEE COUNSELING FOR MINOR VIOLATIONS

**EFFECTIVE: 05/10/2015**

**REVISED:**

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#### PURPOSE

The New Orleans Police Department recognizes that some violations of Department Rules, Policies, Procedures, or Orders require corrective supervisory guidance and not disciplinary action. This Chapter establishes a process that New Orleans Police Department supervisors may take in certain circumstances to address and resolve minor violations or infractions of Departmental Rules, Policies, Procedures, or Orders, and establishes the circumstances in which that process may be taken.

Nothing within this Chapter lessens a supervisor's responsibility to refer any observed or alleged misconduct, violation, or infraction to PIB for a formal disciplinary investigation.

#### DEFINITIONS

Definitions related to this Chapter include:

**Complaint Form**—The universal form that any person may use to file a complaint against an employee of the New Orleans Police Department. Any person can file a complaint without filling out this form (e.g., a complaint may be communicated verbally or online), and a complaint shall not be disregarded if a person refuses to, or cannot, complete this form. However, a copy of this form shall be provided to any person who requests it or asks to file a complaint, and a supervisor shall assist any such person to ensure the form is filled out thoroughly and forwarded to the Public Integrity Bureau.

**Minor violation/infraction**— A first violation of a Departmental Rule, Policy, Procedure, Order, regulation, or verbal/written instructions that a supervisor believes requires minimal intervention through retraining and/or counseling to correct the employee's behavior (e.g., tardiness, uniform requirement, and cleanliness of vehicle). The behavior must not be the subject of a public complaint and must be considered so minor that it is correctable by simple counseling and minimal intervention by the supervisor, with the goal of non-repetitive behavior. Repetition of a violation within a twelve-month period (based on the date of the observed violation) may require discipline.

**Non-disciplinary counseling or training**—Remedial and non-punitive instruction given by a supervisor to a subordinate employee or officer on an individual basis. The purpose of Non-

Disciplinary Counseling is to resolve the problem and correct the inappropriate behavior by providing guidance. The employee does not experience any loss of rights, remuneration, or benefits. Such non-disciplinary counseling, as well as the underlying minor violation/infraction, is documented within the Complaint Form.

**Remedial training**—Non-punitive, in-service training that is required to specifically address a minor violation/infraction that reveals a deficiency in knowledge or procedure. This training should be viewed as an opportunity to better train and instruct officers/employees, clarifying any issues involving Departmental Rules, Policies, Procedures, or Orders.

### **ELIGIBILITY FOR NON-DISCIPLINARY COUNSELING**

1. If a supervisor observes a minor violation/infraction by an NOPD member, and if the member's past record includes no previous violations or infractions of the same type, a supervisor may, in his or her discretion after considering the totality of the circumstances, address the minor violation/infraction through immediate non-disciplinary counseling or remedial training.
2. The supervisor must have firsthand knowledge of the behavior that constitutes the minor violation/infraction.
3. A public complaint cannot be handled through corrective action and requires formal investigation, even if the complained-of behavior is, or appears to be, a minor violation/infraction.
4. When an officer or employee repeatedly (i.e., more than once within a 12-month period) violates the same Departmental Rule, Chapter, Policy, Procedure, or Order, the minor violation/infraction may not be resolved through non-disciplinary counseling or remedial training. In such circumstances, formal investigation is required.

### **SUPERVISOR RESPONSIBILITIES**

5. A supervisor who takes corrective action for a minor violation/infraction must document the minor violation/infraction and the specific corrective action taken on a Complaint Form. The Complaint Form must be given to, and signed by, the accused employee. The Complaint Form must then be forwarded to the Public Integrity Bureau within five days of the supervisor becoming aware of the minor violation/infraction.
6. The supervisor should provide the counseling individually, without other officers present, citing the appropriate Rule, Chapter, Policy, Procedure, or Order violated and the behavior that constitutes the violation. The supervisor should instruct the accused officer or employee how to avoid making the same violation/infraction in the future and inform the accused officer/employee that repetition of the violation/infraction may result in disciplinary action.

**EMPLOYEE RESPONSIBILITIES**

7. Employees receiving non-disciplinary counseling or training in response to a minor violation/infraction must sign the Complaint Form completed by the supervisor. The signature of the accused employee on the Complaint Form is to acknowledge receipt of the documentation, not to acknowledge culpability. Refusal by the accused to sign the Complaint Form acknowledging receipt shall result in the immediate initiation by the issuing supervisor of an internally generated complaint for a violation of "Rule 4: Performance of Duty; Paragraph 2: Instructions from an Authoritative Source, to wit: verbal instructions from INSERT RANK AND NAME OF SUPERVISOR to sign Complaint Form acknowledging receipt."
8. The accused officer or employee shall not experience any loss of rights, remuneration, or benefits as a result of such corrective action. If he or she denies commission of the minor violation/infraction, he/she may indicate his/her denial on the Complaint Form.
9. If an employee believes he/she has been issued a Documentation of Minor Violation/Infraction Resolved Through Non-Disciplinary Counseling or Training in error, he/she may submit to PIB within thirty (30) days of the date of issuance a 105 to the PIB Deputy Superintendent through his/her chain of command documenting his/her reason(s) for believing the issuance was erroneous. The 105 will become part of the documentation of the complaint and retained by PIB.

**REVIEW**

10. The Public Integrity Bureau will review the submitted Complaint Form to ensure appropriate corrective action has been taken. PIB shall review the documentation and shall have authority to require a full investigation into the alleged minor violation/infraction.
11. If PIB determines that the complained-of behavior constitutes a more serious offense requiring formal investigation, PIB shall institute a formal investigation based on the Complaint Form.